

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

FOREMOST SIGNATURE INSURANCE
COMPANY

PLAINTIFF

V.

CIVIL ACTION. NO. 1:18-CV-154-SA-RP

DR. DON SIMPSON, M.D., INDIVIDUALLY
AND D/B/A MAGNOLIA WOMEN'S CLINIC;
MAGNOLIA WOMEN'S CLINIC, P.A.; and
KIRSTIN FITZGERALD, individually
and on behalf of S.F., A MINOR,
jointly and individually

DEFENDANTS

AGREED DECLARATORY JUDGMENT AND
FINAL JUDGMENT OF DISMISSAL WITH PREJUDICE

CAME THIS DAY, the Plaintiff, Foremost Signature Insurance Company ("Foremost"), and the Defendants, Dr. Don Simpson, M.D., Individually and d/b/a Magnolia Women's Clinic (hereinafter "Dr. Simpson"); Magnolia Women's Clinic, P.A. (hereinafter "Magnolia"); and Kirstin Fitzgerald, Individually and on Behalf of S.F., a Minor, Jointly and Individually ("Fitzgerald"), for hearing on their joint motion for entry of an Agreed Declaratory Judgment and Final Judgment of Dismissal with Prejudice. The Court, after noting the agreement of the parties and after otherwise being fully advised in the premises, as stated herein below, finds that said motion is well taken and that it should be granted.

THE PARTIES HEREIN ACKNOWLEDGE the following:

1. There is no coverage under the terms, conditions, exclusions, definitions, and other provisions of Small Business Policy No. PAS 00989345 ("the Foremost Policy") for any of the claims asserted against Dr. Simpson or Magnolia, in the civil suit filed in the Circuit Court of Alcorn County,

Mississippi, styled “*Kirstin Fitzgerald, Individually and on behalf of S.F., a Minor, Jointly and Individually v. Dr. Don Simpson, M.D., Individually and D/B/A Magnolia Women’s Clinic; Magnolia Women’s Clinic, P.A.,*” and bearing Cause No. CV18-229RA (the “Underlying Action”).

2. Foremost does not have, nor ever had, any duty to defend Dr. Simpson or Magnolia, against any of the claims asserted against them, or either one of them, in the Underlying Action under the Foremost Policy.

IT IS, THEREFORE, ORDERED AND ADJUDGED, that (1) there is no coverage under the terms, conditions, exclusions, definitions, and other provisions of the Foremost Policy for any of the claims asserted against Dr. Simpson or Magnolia in the Underlying Action and (2) Foremost does not have, nor ever had, any duty to defend Dr. Simpson or Magnolia against any of the claims asserted against them, or either one of them, in the Underlying Action under the Foremost Policy.

IT IS FURTHER ORDERED AND ADJUDGED that the above styled and numbered cause shall be and is hereby DISMISSED *with prejudice* in its entirety. All costs and attorney’s fees associated with this dismissal shall be borne by each of the respective parties, themselves.

SO ORDERED AND ADJUDGED this the 6th day of November, 2018.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE

AGREED TO BY:

/s/Joseph W. Gill

EDWARD J. CURRIE, JR. (MSB #5546)
JOSEPH W. GILL (MSB #102606)
CURRIE JOHNSON & MYERS, P.A.
1044 River Oaks Drive
P. O. Box 750
Jackson, MS 39205-0750
Telephone: (601) 969-1010
Telecopier: (601) 969-5120
ecurrie@curriejohnson.com
jgill@curriejohnson.com
*Counsel for Foremost Signature
Insurance Company*

/s/William W. Odom, Jr.

WILLIAM W. ODOM, JR. (MSB #3911)
ODOM AND ALLRED, P.A.
404 Waldron Street
Corinth, MS 38834
Telephone: (662) 286-9311
Facsimile: (662) 286-9312
bodom43@bellsouth.net
*Counsel for Dr. Don Simpson, M.D.,
Individually and d/b/a Magnolia Women's
Clinic, and Magnolia Women's Clinic, P.A.*

/s/T.K. Moffett

T.K. MOFFETT (MSB #3402)
MOFFETT LAW FIRM, PLLC
330 North Broadway Street
P.O. Box 1707
Tupelo, MS 38802
Telephone: (662) 844-0836
Facsimile: (662) 844-9920
tkmoffett@moffettlaw.com
*Counsel for Kirstin Fitzgerald, Individually
and on behalf of S.F., a Minor, Jointly and
Individually*